

Municipal Coalition Testimony
on
Act 286 of 2008

The Municipal Coalition is comprised of the Michigan Municipal League, the Michigan Townships Association, and many individual cities, villages and townships across Michigan. For the last 3 years the Municipal Coalition has participated in Consumers Energy's rate increase cases. Since Act 286 was passed, Consumers has proposed rates increases on municipalities of over 33%, much of which has been self-implemented under the automatic rate increase provisions allowed by the changes made in Act 286 where the utilities can self-implement their requests after 180 days. These utility rate increases are crippling municipal budgets. Municipalities are large users of electric power for water treatment, street lighting and general uses and after more than 50 years of being treated distinctly have recently been lumped with large commercial users. Act 286 has had very negative effects on municipalities' rates in several specific areas that we request this Committee and the Legislature review and modify. Specifically,

1. Municipal rates should be based on the actual cost to service municipals (like Act 286 requires for education). Two simple words added to MCL 460.11(4) would require that municipalities rates could no longer be used to subsidize the cost to serve other customers. The words to add are "and municipalities" after the list of educational institutions, as shown in the attachment. Municipals should have their own group of rates so that actual cost of service rates can be confirmed. The MPSC has been completely unresponsive in this request. The municipals are truly a unique group of customers because of the legal, health, and environmental requirements placed on them which require them to use electricity (e.g., treating water) when others could curtail usage and save money. Municipalities can not do so and must continue to use electricity for public health, welfare and safety services.
2. The "automatic rate increase" provisions after 180 days should be repealed. No rate increase should occur until after the MPSC has issued an order indicating findings as to why the rate increase is necessary (like was the law for over 50 years before the 2008 changes in Act 286). This provision always leads to utilities over collecting what the MPSC ultimately finds was proper. Then, adding insult to injury, the resulting overcharges do not get refunded back to those municipalities who were overcharged in the amount overcharged, and it takes years to get the refunds back. The law should require any overcharges must be promptly returned to the customers overcharged in the actual amount of the overcharge.
3. The 10% restriction on Customer Choice should be significantly increased or eliminated. There are now more than 5,000 customers on a waiting list, including some municipalities, to choose another electric utility,. When choice is available utilities must keep their own costs down and everyone's rates are lower. Legislators were erroneously told, when reducing customer choice from 100% to only 10%, that this amount would satisfy demand for many years. The 10% cap was all taken in less than 12 months from the passage of the new law.

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)

Act 3 of 1939

460.11 Phase-in of electric rates; impact on residential and industrial metal melting rates; establishment of eligible low-income customer or senior citizen customer rates; public and private schools, universities, and community colleges; retention of independent consultant.

Sec. 11. (1) This subsection applies beginning January 1, 2009. Except as otherwise provided in this subsection, the commission shall phase in electric rates equal to the cost of providing service to each customer class over a period of 5 years from the effective date of the amendatory act that added this section. If the commission determines that the rate impact on industrial metal melting customers will exceed the 2.5% limit in subsection (2), the commission may phase in cost-based rates for that class over a longer period. The cost of providing service to each customer class shall be based on the allocation of production-related and transmission costs based on using the 50-25-25 method of cost allocation. The commission may modify this method to better ensure rates are equal to the cost of service if this method does not result in a greater amount of production-related and transmission costs allocated to primary customers.

(2) The commission shall ensure that the impact on residential and industrial metal melting rates due to the cost of service requirement in subsection (1) is no more than 2.5% per year.

(3) Notwithstanding any other provision of this act, the commission may establish eligible low-income customer or eligible senior citizen customer rates. Upon filing of a rate increase request, a utility shall include proposed eligible low-income customer and eligible senior citizen customer rates and a method to allocate the revenue shortfall attributed to the implementation of those rates upon all customer classes. As used in this subsection, "eligible low-income customer" and "eligible senior citizen customer" mean those terms as defined in section 10t.

(4) Notwithstanding any other provision of this section, the commission shall establish rate schedules which ensure that public and private schools, universities, ~~and community colleges~~, ^{and municipalities} are charged retail electric rates that reflect the actual cost of providing service to those customers. Not later than 90 days after the effective date of the amendatory act that added this section, electric utilities regulated under this section shall file with the commission tariffs to ensure that public and private schools, universities, ~~and community colleges~~ are charged electric rates as provided in this subsection.

(5) Subsections (1) to (4) apply only to electric utilities with 1,000,000 or more retail customers in this state.

(6) This subsection applies beginning January 1, 2009. The commission shall approve rates equal to the cost of providing service to customers of electric utilities serving less than 1,000,000 retail customers in this state. The rates shall be approved by the commission in each utility's first general rate case filed after passage of the amendatory act that added this section. If, in the judgment of the commission, the impact of imposing cost of service rates on customers of a utility would have a material impact, the commission may approve an order that implements those rates over a suitable number of years. The commission shall ensure that any impact on rates due to the cost of service requirement in this subsection is not more than 2.5% per year.

(7) The commission shall annually retain an independent consultant to verify that the requirements of this section are being satisfied for each electric utility. The costs of this service shall be recoverable in the utility's electric rates. This subsection does not apply after December 31, 2015.

History: Add. 2008, Act 286, Imd. Eff. Oct. 6, 2008.